Supreme Court, U.S.
FILED
95-79 JUN 26 1995

No. _____

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IN THE

SUPREME COURT OF THE UMITED STATES

OCTOBER TERM, 1994

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EDWARD OLSZEWSKI,
Petitioner,

vs.

AMERICAN TELEPHONE & TELEGRAPH COMPANY,
Respondent.

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Petition for Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit

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# PETITION FOR WRIT OF CERTIORARI

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Edward Olszewski, Pro Se
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## QUESTION PRESENTED

1. Should a complaint in Federal Court of age discrimination under ADEA, which has no preclusive effect in federal proceedings, allow a respondent to be granted a summary judgement and prevent a trial by jury, defined under the Seventh Ammendment; when due process and eqaul protection, defined under the Fourteenth Ammendment, were not allowed by both the investigation of the State Agency and the respondent's legal manipulations, with regard to the following:

a: The State Agency investigation in this matter was not consistant with due process rights, as they are defined, in addition to the agency's investigator, who conducted the investigation, not reviewing any of the plaintiff's exhibits or documentation.

b: Respondent did not participate or follow the rules of discovery in this civil complaint.

## PARTIES TO THE PROCEEDING

The Petitioner, Edward Olszewski, Pro Se

Former employee of respondent.

The Respondent, American Telephone & Telegraph Company, with national and international locations; parent company for AT&T Bell Laboratories, and former employer of the petitioner. (1)

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1. A motion by the respondent was granted by the Court, which changed respondent's identity from AT&T Bell Laboratories to American Telephone & Telegraph Company, as appears in Apendix F to this petition and to which the petitioner objected.

TABLE OF CONTENTS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT


| | PAGE |
|---|---|
| QUESTION PRESENTED FOR REVIEW | i |
| PARTIES TO THE PROCEEDING | iii |
| INDEX TO APPENDIX | v |
| TABLE OF AUTHORITIES | vi |
| OPINIONS BELOW | 1 |
| JURISDICTION | 3 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED | 4 |
| STATEMENT OF THE CASE | 5 |
| REASON FOR GRANTING THE WRIT | 7 |
| CONCLUSION | 23 |
| APPENDIX | |

## INDEX OF APPENDICES

Edward Olszewski, vs. AT&T Bell Laboratories, Memorandum and Order filed on August 4, 1994. U.S. District Court, District of New Jersey to grant a Motion for Summary Judgement. Civil Action NO: 93-1856 (MLP) . . . . . Appendix A

Edward Olszewski, vs. American Telephone & Telegraph, Judgement Order filed March 27, 1995. U.S. Court of Appeals for the Third Circuit to afirm district Court Judgement. Appeal NO: 94-5576 . . . . Appendix B

Edward Olszewski, vs. AT&T Bell Laboratories, Mandate Order filed May 3, 1995. U.S. District Court, District of New Jersey. Civil Action NO. 93-1856 (MLP) . . . . . Appendix C

Amendment 7 to the United States Constitution . . . . Appendix D

Amendment 14 to the United States Constitution . . . . Appendix E

Olszewski, v. AT&T, Motion to Amend the Caption granted filed October 21, 1994. U.S. Court Of Appeals For The Third Circuit. Appeal No. 94-5576 . . . . Appendix F

TABLES OF AUTHORITIES CITED

CASES

Astoria Federal Savings & Loan v. Solimino S. Ct. 2166, 2172 (1991) . . . . . 13

Butterman v. Walston & Co. (1970, ED Wis) 50 frd 189, 14 FR Serv 2d 661 . . . . . 12

Cartegena v. Secretary of Navy (1980, CA1) 618 F2d 130, 22 BNA FEP Cas 275,22 CCH EPD ¶ 33220 . . . . . 9

Kramer v. Chemical Constr. Corp. 456 U.S. 461, 466 . . . . . 16

Murrell v. Bennett (1980, CA5 Ala) 615 F2d 306 29 FR Serv 2d 1544 . . . . . 10

Oaks v. Fairhope (1981, SD Ala) 515 F Supp 1004, 28 BNA FEP Cas 74, 28 CCH EPD ¶ 32648 . . . . . 11

State Div. of Human Rights v. New York State Drug Abuse Comm'n 59 App. Div. 2d 332, 336, 399 N.Y.S. 2d 541, 544 (1971) . . . . 17

Thornbrough v. Columbus & G. R. Co. (1985, CA5 Miss) 760 F2d 633, 37 BNA FEP Cas 1414, 37 CCH EPD ¶ 35274 . . . . . 11

Watson v. Southern R. Co. (1975, DC SC) 420 F Supp 483, affd without op (CA4 SC) 542 F2d 1170 . . . . . 8

STATUTES

United States Code

Rule 29 U.S.C. § 621 et seq (ADEA) . . . . . 5

Title 18, Section 3231 . . . . . 3

Title 28, Section 1254 (1) . . . . 3

United States Constitution,

Seventh Ammendment . . . . . 4, 7, 21

Fourteenth Ammendment . . . . 4, 7, 22

OTHERS

9 N.Y.C.R.R. S465.6 (1977) . . 18, 19

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

EDWARD OLSZEWSKI,
Petitioner,

vs.

AMERICAN TELEPHONE & TELEGRAPH COMPANY

Respondent.

# PETITION FOR WRIT OF CERTIORARI

---

Petitioner, Edward Olszewski, respectfully prays that a writ of certiorari issue to review the Judgement and Opinion of the United States Court of Appeals for the Third Circuit refusing to allow a a trial by jury by granting a Summary Judgement.

## OPINIONS BELOW

On August 4, 1994, the United States District Court, District of New Jersey granted the Motion on behalf of AT&T Bell Laboratories for Summary Judgement. The memorandum and order of the United States District Court of New Jersey, Filed on August 4, 1994; Entered on August 9, 1994, appears in Appendix A to this Petition. On March 27, 1995, The United States Court of Appeals for the Third Circuit, affirmed the District Court's decission. The Order of the Court of Appeals for the Third Circuit, appears in Appendix B of this Petition. The Mandate Order of the United States District Court, District of New Jersey was Filed May 3, 1995; Entered May 5, 1995, and appears in Appendix C to this petition.

## JURISDICTION

The United States District Court, District of New Jersey, Summary Judgement in this matter was filed on August 4, 1994. The Court had juristriction persuant to Title 18, U.S.C. § 3231.

The Court of Appeals, Order in this matter was filed on March 27. 1995. This Court's juristriction is invoked under Title 28, U.S.C. § 1254.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment Seven to the United States Constitution is set forth in Appendix D. Amendment Fourteen to the United States Constitution is set forth in Appendix E.

## STATEMENT OF THE CASE

On August 9, 1994, a Memorandum and Order was returned for granting a summary judgement, to the defendant, in opposition to the Plaintiff's motion to continue with a trial by jury, in a civil complaint of Age Discrimination.

The Complaint in United States District Court was filed on April 29, 1993, indicating the defendant violated the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq (ADEA).

The complaint was amended January 14, 1994, by the addition of demand for a trial by jury of twelve.

Filing of the United States District Court complaint was preceeded by an EEOC "right to sue" notification on March 25, 1993. The original complaint was filed with the New Jersey Division on Civil Rights (DCR) on August 15, 1991. On

December 11, 1992, a finding of no probable cause was issued. On direction of the DCR a Notice of Appeal to the Appellate Division of the Superior Court was filed and on May 25, 1994, the appeal was denied. The Appellate Division also denied a Motion for Reconsideration by an order filed June 20, 1994.

## REASON FOR GRANTING THE WRIT

Certiorari should be granted for two reasons: This Petition presents an issue of preserving the rights under the Seventh Amendment to the Constitution of the United States, of a trial by jury in civil cases and preserving the rights under the Fourteenth Amendment to the Constitution of the United States, by not allowing State Agencies and respondent's attorneys who violate the Rules of the Court, to deprive a person of due process of law and equal protection of the law.

The plaintiff's complaint deals with age discrimination, which was filed under the Age Discrimination in Employment Act (ADEA) and has been prevented from a trail by a jury through the Courts decission to grant a Summary Judgement to the defendant.

The Court states its reasons for Summary Judgement under the headings of SUMMARY JUDGEMENT STANDARDS and DISCUSSION.

Under SUMMARY JUDGEMENT STANDARDS: Rule 56 (c) is refered to with several cases noted. These cases refer to, no genuine issue of material facts and evidence which a reasonable jury could return a verdict for the moving party. Rule 56 states:

> "Since its impact is rather drastic, summary judgement under Rule 56 must be used with due regard for its purpose and should be cautiously invoked so that no person will be improperly deprived of trial of disputed factual issues. Watson v Southern R. Co. (1975, DC SC) 420 F Supp 483, affd without op (CA4 SC) 542 F2d 1170."

The plaintiff supplied the Court documentation, which proved beyond reasonable doubt that the plaintiff's termination was not due to poor

performance as the defendant claims. The Court was provided with names of other older workers who were also treated similarly, in the same department, by the same manager, as the plaintiff. The plaintiff showed by the proofs required in the McDonnell Douglas case that the four prong test proved discrimination and that the employer's coments of poor performance were only a pretex for "cover up" for what is in truth discriminatory purpose. Cartegena v Secretary of Navy (1980, CA1) 618 F2d 130, 22 BNA FEP Cas 275, 22 CCH EPD ¶ 33220.

The Court was shown that the defendant refused answering much of the Interrogatories this should have alerted the Court the defendant was hidding the truth and could not have answered without showing discriminatory

practices. The defendant, due to the resistance in answering the Interrogatories was served with Demands For Admission, which by the Rules of the Court are to be answered in 30 days or the answers are to be considered as stated, to be argued at the time of trial. The time for answering the Demands for Admission were extended by a Judge Magistrate and that date was not met. When finally returned many of the Demand for Admission responses were merely statements that the defendant would not answer.

The Court did not even allow for a minimal of discovery in the plaintiff's complaint. Rule 56 states:

> "Summary Judgement normally should not be granted before discovery is completed. Murrell v Bennett (1980, CA5 Ala) 615 F2d 306, 29 FR Serv 2d 1544."

Any jury would return a verdict

for the plaintiff with the facts presented and the reason the defendant requires a Summary Judgement to prevail in this matter.

Under Rule 56, Section C, Civil Rights and Discrimination / Employment Discrimination, regarding the facts above states:

> "In general summary judgement is inappropriate tool for resolving claims of employment discrimination, which involve nebulous questions of motivation and intent. Thornbrough v Columbus & G. R. Co. (1985, CA5 Miss) 760 F2d 633, 37 BNA FEP Cas 1414, 37 CCH EPD ¶ 35274."

> "Summary judgement is particularly inappropriate in employment discrimination cases because such cases necessarily involve examining motive and intent and therefore summary judgement should be used cautiously in such cases and all proceedural requirements should be given strict adherence. Oaks v Fairhope (1981, SD Ala) 515 F Supp 1004, 28 BNA FEP Cas 74, 28 CCH EPD ¶ 32648."

Even if the Court viewed the plaintiff's information lacking:

> "Plaintiff's are not deprived of jury trial when as matter of law they have no triable issue. Butterman v Walston & Co. (1970, ED Wis) 50 FRD 189, 14 FR Serv 2d 661."

A summary judgement by the Courts was improper by Rule 56 which defines summary judgement.

Under DISCUSSION: The Court refers to the preclusive effect regarding the plaintiff's claim. Reference to cases are listed, to substantiate the summary judgement, but those which back the Court's decision are in reference to Title VII cases. The plaintiff in the present matter filed under ADEA.

The Court also indicates that there is no preclusive effect in federal proceedings under the ADEA. See Astoria Federal Savings & Loan Ass'n v Solimino, S. Ct. 2166, 2172 (1991).

The plaintiff in the matter now requesting a writ of certiorari would expect the same considerations as that given Solimino. As a requirement to any action in age discrimination the plaintiff was required to first submitt a complaint to the DCR. From the start the agency misdirected the legally ignorant plaintiff. After an interview the plaintiff was told what to record on the complaint, which it is now realized should have presented the full view of the discrimination. The DCR Investigator assigned the case, who was relativily

new; with limited legal background; no technical backgroud to understand the facts being presented; who the plaintiff considered prejudice in favor of the defendant, because of a parent working for the defendant; became prosecutor; defense attorney; jury and Jugde.

Included in the several hundered pages of documentation gathered by the DCR, concerning the plaintiff's complaint of discrimination and the defendant's claims, which was fowarded to the Attorney General's office, was the time sheet of the DCR Investigator. The time sheet showed the defense attorney portion of the Investigator's duty to be non-existant, there was not one second of time spent on review of the plaintiff's numerous pages of evidence submitted, which showed the employer discriminated against the employee.

The Court refers to the plaintiff's comments and even quotes the plaintiff in regard to facts being provided and witnesses defined in documentation to the DCR. What the Court failed to state was that none of this information was ever reviewed by the DCR Investigator, as seen by the Investigators time sheet.

The Court states, ""Final Case Disposition Report" which reviewed in detail the record facts"..... . The Court has been shown by information provided by the plaintiff, these were not the true facts of the matter. The report provided is merley an iteration of the defendats pretex for a cover up for true discrimination. The Court refers to the "Appelatte Division's" affirmation of the DCR decision. The "Appellate Division" in their affirmation defines the DCR

Director's ability in these matters and notes the Mayflower case as an example of the DCR Director's abilities. The DCR Director did not investigate this matter; nor did he review the plaintiff's documentation; nor did he write the findings; the DCR Director merely signed the finding of no probable cause written by the DCR Investigator.

The Court also refers to what the DCR called a fact finding conference, to which the plaintiff claims violated one of the Constitutional right, the right to legal counsil at the conference to speak in the plaintiff's behalf, which was not allowed.

The Court uses Kremer v Chemical Constr. Corp., 456 U.S. 461, 466, as an earlier State Court proceeding to base

the summary judgement. In the Opinion of the Court in Kremer v Chemical Constr Corp the process which was Constitutionally required is defined and stated:

> "Under New York law, a claim of employment discrimination requires the NYHRD to investigate whether there is "probable cause" to believe that a complaint is true."

There was no investigation of this plaintiff's complaint, just the iteration of statements made by the defendant.

> "Before this determination of probable cause is made, the claimant is entitled to a "full opportunity to present on the record, though informal, his charges against his employer or other respondant, including the right to submit all exhibits which he wishes to present and testimony of witnesses in addition to his own testimony." State Div. of Human Rigts v New York State Drug Abuse Comm'n, 59 App. Div. 2d 332, 336, 399 N. Y. S. 2d 541, 544 (1977)."

Submitting evidence assumes the Investigator responsible for the

case reviews the information. The DCR Investigator did not review any of the plaintiff's documentation and when asked about the last 78 pages of information sent, which was about one third of the information sent to the DCR, the Investigator had no knowledge of ever recieving anything, much less revieving the information and the information is part of the record.

> "The complainant also is entitled to an oppertunity "to rebut evidence submitted by or obtained from the respondant." 9 N.Y.C.R.R. § 465.6 (1977)."

The Court indicated that the plaintiff did not cite any authority to rebut evidence in the DCR investigation. The Plaintiff in this matter was refused information presented by the defendant, so there was nothing to rebut.

"He may have an attorney assist him and may ask the division to issue subpoenas. 9 N.Y.C.R.R. § 465.6 (1977)"

The DCR did not allow an attorney to speak in behalf of the plaintiff at the fact finding conference.

The DCR never explained what was to take place in regard to the claim; what rights existed; the fact that the plaintiff could not persue a legal action trial in the state of New Jersey if a finding of no prabable cause was decided and when calling the DCR Investigator was told nothing could be discussed regarding the complaint.

At the conference, notes were taken in longhand by the DCR Investigator. What was written was not seen by the plaintiff, nor were the notes initialed by the plaintiff. After the decision by

the DCR the notes were reviewed and found to be lacking information presented.

The Court should have found these and the other facts noted Constitutionally deficient, but they did not. In contrast the Court found New Jersey Administrative Code to be non-violate of due process. The New Jersey Administrative Code may be proper, but the maner in which the DCR conducted the investigation in this matter, violated all due process and legal rights of an individual.

The Court concludes with the claim, "Plaintiff initially chose to litigate his complaint through the administrative proceedure of the DCR." The plaintiff was told by the DCR that he would be required to have the DCR look into the claim of discrimination. As the plaintiff found out later the law requires an individual to

resort to State remedies, which is the DCR, prior to instituting a suit. The Court in its years of experience knowns the processes and considers the DCR a form of litigation. The plaintiff viewed placing a claim with the DCR a way of getting employment returned and never expected or was informed of any legal proceedures because no legal proceedures were ever followed. The Court indicates the remedies sought were the same for the DCR complaint as the federal suit. Plaintiff sought the return of his employment of thirty three and one half years with the DCR. Plaintiff's federal suit demands compensation for past and future lost wages.

The Court should grant certiorari here to explicity rule that a summary judgement, in oposition to the Seventh

Ammendment, is not the answer to an ADEA age discrimination claim, granted in disregard of the no preclusive effect in federal proceedings under ADEA, when the State Agency improperly reviwed the complaint and violated the Fourteenth Ammendment, in addition to the defendant refusing to cooperate in discovery.

## CONCLUSION

For the reasons set forth above, this determination of the Third Circuit Court of Appeals of March 27, 1995 must be set aside, and the Court instructed to reconsider this matter in conformity with the rule and legal precedents of the Court.

DATED: July 4, 1995.

Respectfully submitted,

Edward Olszewski

Edward Olszewski Pro Se

NOT FOR PUBLICATION

ORIGINAL FILED
AUG 04 1994
WILLIAM T. WALSH CLERK

ENTERED
on THE DOCKET
on 8-9 1994
WILLIAM T. WALSH CLERK
By _____ Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

| | |
|---|---|
| EDWARD OLSZEWSKI, Plaintiff, v. AT&T BELL LABORATORIES: Defendant. | CIVIL ACTION NO: 93-1856 (MLP) MEMORANDUM AND ORDER |

PARELL, District Judge

This matter comes before the Court on motion of defendant, AT&T Bell Laboratories, for summary judgement. Plaintiff pro se, Edward Olszewski, opposes the motion. For the reasons stated, the motion is granted.

Appendix A

## BACKGROUND

Defendant employed plaintiff as a member of its Technical Staff. On April 30, 1991, defendant discharged plaintiff. (Compl. at 2.) (1)

### A. The Agency Proceedings and the State Court Affirmance

On August 15, 1991, plaintiff filed a Verified Complaint with the New Jersey Department of Law and Public Safety, Division on Civil Rights (the "DCR"). (McDonald Cert. Exs. F.G.)

In the complaint filed with the DCR, plaintiff alleged that, with respect to the termination of his employment, defendant discriminated against him on

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1. By order filed February 22, 1994, plaintiff's motion to amend his complaint was granted. That Order also provided that plaintiff "shall file his amended complaint within fifteen (15) days. . . " The civil docket for this case does not indicate that an amended complaint was ever filed.

the basis of age in violation of the New Jersey Law Against Discrimination ("NJLAD") N.J. Stat. Ann. § 10:5 et seq.

The DCR conducted a Fact Finding Conference at which plaintiff, defendant's representatives and the DCR investigator were present. On December 11, 1992, the DCR issued a finding of No Probable Cause. This document was accompanied by an extensive "Final Case Disposition Report" which reviewed in detail the record facts, and recommended and supported the decission of the DCR investigator. (Id. ¶ 13, Exs. G, H.)

As a result, plaintiff filed a Notice of Appeal to the Appellate Division of the Superior Court of New Jersewy (the "Appellate Division") on or about January 28, 1993. On May 25, 1994, the Appellate Division affirmed the DCR's findings of no probable cause. (Lesnewich Cert. ¶ 5, Ex.

A.) The Appellate Division denied a subsequent motion for reconsideration by order filed June 20, 1994. (Def.'s Letter dated June 27, 1994, Ex. 2.)

B. The United States District Court Action

On March 25, 1993, the EEOC issued a "right to sue" (in federal district court) letter, advising plaintiff that the EEOC had reviewed the findings of the DCR. (Compl. Ex. 1.) Plaintiff filed this federal action on April 29, 1993. That Complaint alleged that defendant terminated plaintiff's employment in April 1991 in violation of the Age Discrimination in Employment Act, 29 U.S.C § 621 et seq (ADEA). Defendant's present motion seeks summary judgement arguing, among other things, that plaintiff's ADEA claims are barred based on prior proceedings. Defendant maintains that plaintiff's ADEA

case is identical to the reviewed state action age discrimination claim under NJLAD. According to defendants, the discriminatory acts are the same, the theory of recovery is the same, and the material facts are the same. (Lesnewich Cert. ¶¶ 6, 7.) (2)

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2. In support of its motion defendant has filed the following documents: Supporting Brief, Reply Brief, Supplemental Brief, Cornacchia Certification, McDonald Certification, DiMaio Certification, Lesnewich Certification, letter dated June 6, 1994, and letter dated June 27, 1994. In opposition, plaintiff has filed the following documents: Opposition Brief, Supplemental Brief, letter dated April 17, 1994, Opposition Exhibits 1-14, and Olszewski Certification.

SUMMARY JUDGEMENT STANDARD

A court shall enter summary judgement under Federal Rule of Civil Procedure 56(c) when the moving party demonstrates that there is no genuine issue of material facts and that the evidence establishes the moving party's entitlement to judgement as a matter of law. Celotex Corp. v. Caterett, 477 U.S. 317, 323 (1986). Once the moving party has satified this initial burden, the opposing party must establish that a genuine issue of facts exists. Jersey Cent. Power & light Co. v. Lacey Township, 772 F.2d 1103, 1109 (3d Cir. 1985), cert. denied, 475 U.S. 1013 (1986). The opposing party cannot rest on mere allegations; it must present actual evidence that creates a genuine issue of material facts. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986) (citing First Nat'l Bank

of Arizona v. Cities Services Co., 391 U.S. 253, 290 (1968)). Issues of facts are genuine only "if evidence is such that a reasonable jury could return a verdict for the moving party." Id. at 248.

DISCUSSION

28 U.S.C. § 1738 requires federal courts to give preclusive effect to judicial proceedings of any court, and federal courts must look to state law to determine the preclusive effect of an earlier state court proceeding. 28 U.S.C. § 1738; see also Kremer v. Chemical Constr. Corp., 456 U.S. 461, 466, reh'g denied, 458 U.S. 1133 (1982) (28 U.S.C. § 1738 requires federal courts "to give the same preclusive effect to state court judgements that those judgements would be given in the courts of the State from which the judgement emerged."); Pittman v.

LaFontaine, 756 F. Supp. 834, 841 (D.N.J. 1991) (same) (employee's election to litigate her complaint through DCR procedure precluded employee from pursuing Title VII action in federal court after decision of DCR affirmed in all respects on appeal to New Jersey Appellate Division). A judicially unreviewed state administrative decision on an age discrimination claim, however, has no preclusive effect on federal proceedings under the ADEA. See Astoria Federal Savings & Loan Ass'n v. Solimino, 111 S. Ct. 2166, 2172 (1991) ("We speak, after all, only of agency determinations not otherwise subjected to judicial review. . . .")

Plaintiff's Amended Complaint asserts discrimination under ADEA. Defendant argues that plaintiff ADEA claim is precluded by the decision of the

Appellate Division that affirmed plaintiff's NJLAD appeal from the DCR finding of no probable cause. Id. at 2170 ("In the face of § 1738, we have found state court judgements in the closely parallel context of Title VII . . to enjoy preclusion effect in the federal courts.").

The requirements for claim preclusion under New Jersey law appear to have been met. See, e.g., Culver v. Ins. Co. of North America, 115 N.J. 451, 460 (1989) (claim preclusion requires "substantially similar or identical cause of action and issues, parties and relief sought . . . In addition, there must be a 'final judgement, by a court or tribunal of competent jurisdiction.'"). It is not disputed that plaintiff's ADEA claim is based on the same grievance presented to the DCR. As the DCR decision has been

reviewed, and upheld, by the Appellate Division, this Court must give preclusive effect to that decision. (3)

Strong policy reasons support the findings that plaintiff's federal court claim is precluded by the Appellate Division judgement. In the closely parallel context of Title VII action, the United Supreme Court in Kremer held that a federal court is required under section 1738 to give preclusive effect to a state court decission upholding a state administrative agency's rejection of an employment discrimination claim. The Supreme Court explained that:

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3. Under NJLAD, an individual may either file a complaint with the DCR or bring suit in New Jersey Superior Court. A party who seeks administrative redress with the DCR, and objects to the determination made by the DCR, may appeal to the Appellate Division. N.J. Stat. Ann. § 10:5-21.

> [S]tripping state court judgements of finality would be far more destructive to the quaality of ajudication by lessening the incentive for full participation by the parties and for searching review by state officials. Depriving state judgement of finality would not only violate basic tenents of comity and federalism, but also would reduce the incentive for States to work towards effective and meaningful antidiscrimination systems.

Kremer, 456 U.S. at 478 (citation omitted)

Plaintiff asserts that summary judgement is inappropriate because the DCR proceedings did not satisfy the due process requirements of the Fourteeth Amendment. Specifically plaintiff argues that he was not prepared for the DCR conference, was only allowed to ask a few questions, and was not allowed to view documentations presented by AT&T. Plaintiff then goes on to explain that he had an opportunity to present his contentions: "[e]ven though I provided proof of my facts, by use of AT&T[']s

documents and showed w[h]ere AT&T[']s] contradicted their own negative statements, the DCR investigator chose only to present the negative, incorrect comments in the findings, which allowed the DCR Director[']s] finding. Witnesses were defined who could verify facts to the DCR, but not one was ever contacted." (Pl.'s Supp. Br. at 2; Plaintiff's Resp. Cert.)

Generally, federal courts are not required to accord full faith and credit to a constitutionally infirm judgement. See Kremer, 456 U.S. at 482. Plaintiff, however, cites no authority for the proposition that he has a constitutional right to rebut every piece of evidence an administrative agency collects during an investigation. See Pittman, 756 F. Supp. at 846 ("That [plaintiff] did not avail herself of all the provisions of the

administrative code described above does not render it a violation of her due process rights to accord the DCR determinatrion, affirmed by the Appellate, full faith and credit.") Moreover, the DCR procedures contained in the New Jersey Administrative Code have been found to be non-violative of due process. See id. at 846; N.J. Admin. Code § 13:4-2.1 et seq.; see also Mathews v. Eldridge, 424 U.S. 319, 335 (1976) (generally discussing constitutionality of administrative procedures); cf. Kremer, 456 U.S. at 485 ("The fact that [a plaintiff] failed to avail himself the full procedures provided by state law does not constitute a sign of [the] inadequacy [of the state administrative procedures].").

This Court agrees that as the administrative procedures provided in the administrative code are not

constitutionally deficient, plaintiff's due process rights were not violated, and it is appropriate to dismiss plaintiff's ADEA claim under preclusion principles. Plaintiff initially chose to litigate his complaint through the administrative procedures of the DCR. This Court is constrained to find the decision of the DCR, that was affirmed in all respects by the Appellate Division, to be a final decision under New Jersey law that must be given full faith and credit here

IT IS, therefore, on this 4th day of August, 1994

ORDERED that motion of defendant for summary judgement be and is GRANTED.

"s/Mary Little Parell/

MARY LITTLE PARELL
United States District Judge

Appendix A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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NO. 94-5576

---

EDWARD OLSZEWSKI
Appellant
v.
AMERICAN TELEPHONE & TELEGRAPH COMPANY

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On Appeal From the United States District Court For the District of New Jersey
(D.C. Civil Action No. 93-cv-01856)
District Judge:
Honorable Mary Little Parell

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Submitted March 10, 1995
Before: STAPLETON, GREENBERG and ALITO
Circuit Judges

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JUDGEMENT ORDER

After consideration of the contention raised by the appellant, it is
ORDERED AND ADJUDGED that the judgement of the district court entered August 9, 1994, be and is hereby affirmed.
Costs taxed against appellant.

By the Court,
"s/Walter Stapleton"

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Circuit Judge

ATTEST:
"s/P. Douglas Sisk"

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Clerk

Dated: March 27,1995

Appendix B

ORIGINAL FILED
May 03 1995
WILLIAM T. WALSH CLERK

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Attorney for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 93-1856 (MLP)

EDWARD OLSZEWSKI,
Plaintiff,
vs.
AT&T BELL LABORATORIES,
Defendant.

MANDATE ORDER

It is hereby entered and adjudged that the judgement of the District Court entered August 9, 1994, be and hereby affirmed.

Costs taxed against appellant.

IT IS SO ORDERED, this 3rd day of May, 1995.

"/Mary Little Parell"

Mary Little Parell, U.S.D.J.

ENTERED on THE DOCKET
on 5-5 1995
WILLIAM T. WALSH, CLERK
By _____(Deputy Clerk)

## AMENDMENT 7

Trial by jury in civil cases.

In Suits at common law, where the value in controversy, shall exceed twenty dollars, the right of trial shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

## AMENDMENT 14

Section 1. Citizens of the United States.

All persons born or naturalized in the United States, and subject to the jurisdictions therof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citezens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 94-5576

Olszewski v. AT&T

To: Clerk

1) Letter Dated September 30, 1994 from Appellee, AT&T, which shall be Construed as a Motion to Amend the Caption

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The Foregoing Motion was granted. The caption is amended so that AT&T Bell Laboratories is identified as American Telephone & Telegraph Company.

For the Court,

"s/ P. Douglas Sisk"

Clerk

Dated: Oct - 7 1994

MA/cc: EO
AGL

Appendix F